

147 FERC ¶ 61,008
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

AltaGas Facilities (U.S.), Inc.

Docket No. CP00-401-001

ORDER VACATING SECTION 3 AUTHORIZATION
AND TERMINATING PRESIDENTIAL PERMIT

(Issued April 2, 2014)

1. On October 21, 2013, AltaGas Facilities (U.S.), Inc. (AltaGas) filed an application requesting: (1) authorization to terminate its existing Natural Gas Act (NGA) section 3 authorization and its Presidential Permit for its facilities extending from the international boundary in Toole County, Montana to Alberta, Canada; and (2) a waiver of Article 9 of its Presidential Permit, which requires AltaGas to remove the authorized border crossing facilities when the Permit is terminated. AltaGas proposes to leave the facilities in place. For the reasons discussed below, the Commission will grant the requested authorizations.

I. Background and Proposal

2. AltaGas is a U.S. corporation organized and existing under the laws of the State of Delaware, and its main offices are located in Calgary, Alberta, Canada. In 2001, the Commission issued an NGA section 3 authorization and Presidential Permit to AltaGas to construct, operate, maintain, and connect a 60-foot-long, six-inch-diameter natural gas pipeline and related facilities at the United States/Canada international boundary in Toole County, Montana.¹ The border crossing facilities connect AltaGas's gathering facilities in Toole County to gathering wells in the Coutts Red Coulee area of the Province of Alberta.

¹ *Suprex Energy Corp. and AltaGas Facilities (U.S.), Inc.*, 96 FERC ¶ 61,180 (2001).

3. As stated above, AltaGas requests the Commission vacate its existing NGA section 3 authorization and terminate its Presidential Permit for these facilities. AltaGas explains that it deactivated the border crossing facilities in September 2010 and earlier this year made a business decision to abandon the facilities in place because they had not been in use for some time.² Therefore, AltaGas requests a waiver of Article 9 of its Presidential Permit to allow AltaGas to leave the facilities in place after termination of its section 3 authorization and vacation of the Permit. AltaGas believes the short length and small diameter of the pipeline do not justify the environmental disturbance associated with the pipeline's removal. AltaGas states that it will pig the pipeline with air to remove liquids and inhibitor, remove the cathodic protection and pipeline risers, and cap and tag the pipeline underground. AltaGas proposes to maintain records of the internal and external corrosion of the pipeline for two years after the abandonment.

4. On March 10, 2014, AltaGas informed the Commission that, without consulting the company's regulatory team, its field gathering and processing team and the operations engineer for the region gave permission to a consultant for the work to be done to permanently deactivate the facilities. AltaGas states its consultant used the same processes and measures AltaGas proposed to use in its application.

II. Public Notice and Intervention

5. On November 4, 2013, the Commission issued notice of AltaGas's application.³ No protests or motions to intervene were filed.

III. Consultation with Secretaries of State and Defense

6. On November 26, 2014, pursuant to Executive Order 10485, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on the applicant's requested surrender of its Presidential Permit and NGA section 3 authorization. By letters dated December 17, 2013, and February 20, 2014, the Secretaries of Defense and State, respectively, indicated that they have no objections to vacating AltaGas's existing NGA section 3 authorization, terminating its Presidential Permit, and waiving Article 9 of its Permit.

² See AltaGas's March 10, 2014 Comment Letter at 1.

³ See also 78 Fed. Reg. 67,349-02 (November 12, 2013).

IV. Discussion

A. Public Interest

7. Pursuant to Department of Energy Delegation Order No. 00-004.00A, effective May 16, 2006, the Commission has delegated authority to grant Presidential Permits and issue NGA section 3 authorizations for import and export facilities. Section 3 provides for the Commission's approval of an application under that section "unless it finds that the proposal will not be consistent with the public interest."⁴ The Commission may also apply terms and conditions as it deems necessary to ensure a project is not inconsistent with the public interest.⁵

8. No party has intervened or filed a protest in this proceeding, indicating that there is no opposition to AltaGas's proposal. Because the facilities have been out of service since 2010, AltaGas's business decision to permanently deactivate the facilities is reasonable. For these reasons, we grant AltaGas's request that we terminate its Presidential Permit, vacate its existing NGA section 3 authorization, and grant its waiver request as consistent with the public interest.

9. AltaGas requests waiver of Article 9 of its Presidential Permit which states: "[u]pon the termination, revocation, or surrender of this Permit, the transportation facilities herein authorized shall be removed within such time as the Commission may specify, and at the expense of the Permittee." We note that the Commission modified the Article 9 language in more recent Presidential Permits and no longer automatically requires the removal of border crossing facilities.⁶ Article 9 now states that upon surrender, revocation, or termination of a Presidential Permit, "the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place." AltaGas suggests that this more recent clause be applied in this situation and that the Commission allow the pipeline to remain in place.

10. We agree that it is more appropriate to allow AltaGas's border crossing facilities to remain in place because it is the least environmentally disruptive method of ending service on these facilities, and we will thus grant waiver of Article 9 of AltaGas's Presidential Permit. Given AltaGas's explanation of the miscommunication between its regulatory office and its field and engineering teams that resulted in the inadvertent

⁴ 15 U.S.C. § 717b(a) (2012).

⁵ *Id.*

⁶ See, e.g., *NET Mexico Pipeline Partners, LLC*, 145 FERC ¶ 61,112 (2013); *Kinder Morgan Texas Pipeline LLC*, 143 FERC ¶ 61,245 (2013); *AES Ocean Express, LLC*, 143 FERC ¶ 61,034 (2013).

completion of the necessary work to abandon these facilities prior to receiving authorization, we need take no action against AltaGas.

B. Environment

11. To satisfy the requirements of the National Environmental Policy Act, Commission staff prepared an environmental assessment (EA) for AltaGas's proposal. The EA was placed in the public record on March 11, 2014. No comments on the EA were filed.

12. Based on the analysis in the EA, we conclude that the abandonment would not constitute a major federal action significantly affecting the quality of the human environment.

13. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) The NGA section 3 authority granted to AltaGas Facilities (U.S.), Inc. to operate and maintain facilities at the international boundary between the United States and Canada in Toole County, Montana is vacated and the related Presidential Permit is terminated.

(B) Article 9 of AltaGas Facilities (U.S.), Inc.'s Presidential Permit is waived.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.